

Before the
Administrative Hearing Commission
State of Missouri



MARK FOWLER,)	
)	
Petitioner,)	
)	
vs.)	No. 13-1221 RI
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We lack the statutory authority to hear this case because Mark Fowler did not file a timely appeal.

Procedure

The Director of Revenue (“the Director”) issued a final decision on June 3, 2013, finding that Fowler owed a total of \$4,824.80 in tax, additions to tax, and interest for the 2005 tax year. This Commission received Fowler’s appeal on July 9, 2013. On August 6, 2013, the Director of Revenue filed a motion to dismiss. Fowler responded on August 17, 2013.

Findings of Fact

1. The Director issued its final decision concerning Fowler’s 2005 taxes on June 3, 2013.

2. In his denial letter, the Director informed Fowler that if he wanted to appeal, he needed to file a complaint with this Commission within thirty days from the date the decision was mailed.

3. The Director included the address and telephone number for this Commission in the letter.

4. The Director mailed the letter on June 3, 2013.

5. Fowler's complaint was not received by this Commission until July 9, 2013.

6. Fowler did not send his complaint to this Commission by certified or registered mail or by fax.

Conclusions of Law

The Director filed a motion to dismiss. The Director included materials outside the complaint and the answer. We will therefore consider the Director's motion to dismiss as a motion for summary decision.¹

We have jurisdiction over appeals from the Director's tax decisions under § 621.050.² Here, the Director contends that Fowler did not comply with the statute of limitations. Contrary to the Director's argument, the statute of limitations is not jurisdictional.

There are only two types of jurisdiction: personal jurisdiction and subject-matter jurisdiction.³ The parties do not dispute that this Commission has personal jurisdiction over Fowler and the Director. Subject-matter jurisdiction is this Commission's "authority to render a judgment in a particular category of case."⁴ Subject-matter jurisdiction is separate from our "statutory ... authority to grant relief in a particular case."⁵

¹ 1 CSR 15-3.436(4)(A).

² All statutory citations are to RSMo 2000.

³ *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 254 (Mo. banc 2009).

⁴ *Id.* at 253.

⁵ *McCracken v. Wal-Mart Stores East, LP*, 298 S.W.3d 473, 477 (Mo. banc 2009).

We have the authority to decide appeals from the Director's tax decisions under § 621.050. We therefore have subject-matter jurisdiction over this case. Our authority to grant relief, however, is limited by § 621.050 to cases in which the taxpayer files an appeal with thirty days of the mailing of the Director's final decision.

Here, the Director mailed his final decision on June 3, 2013. This Commission received Fowler's complaint on July 9, 2013, six days out of time. Fowler did not send his complaint to this Commission by certified or registered mail. Thus, this Commission filed Fowler's complaint "on the date that the ... commission received it."⁶ Fowler's complaint was untimely. We lack the statutory authority to consider it further.

Conclusion

We dismiss the complaint because it was untimely filed.

SO ORDERED on August 30, 2013.

\s\ Nimrod T. Chapel, Jr.
NIMROD T. CHAPEL, JR.
Commissioner

⁶ § 621.205; 1 CSR 15-3.290(1)(C).